IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7923 OF 2005
IN
CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra ...Applicant
V/s.
Sanjay Appaso Gobaje ...Respondent
Mr.Y.S. Shinde APP for the State.
Mr.Kuldeep S. Patil for Respondent.

CORAM : V.M. KANADE, J.
DATED : 20th SEPTEMBER, 2007.

P.C:-

1. Heard learned APP for the State and learned counsel for the Respondent.

2. The State has filed an application against acquittal, challenging the judgment and order passed by the JMFC, Sangli, dated 02/09/2005 whereby he was pleased to acquit the Respondent/Accused for the offences punishable U/s.279, 304-A of IPC and Section 184 of Motor Vehicles Act.

3. It is case of the prosecution that the deceased Rajaji Rathod got down from the truck and the Respondent was riding the motor cycle and he came and knocked down the deceased. As a result of injury

which was caused due to the accident, he died soon after he was admitted in the hospital. Prosecution relied on the evidence of eye witness who has stated that the deceased Rajaji Rathod was loading sugarcane on the truck and after completing loading of sugarcane, he got down from the Truck at which point of time the Respondent/Accused gave dash by his motor cycle.

4. The Trial Court has considered evidence of eye witness and also has taken into consideration postmortem report. The postmortem report indicates that there was no other injury on the other part of the body of the deceased and there was injury on the head and postmortem report revealed that the scull was fractured over Rt.mid temporal bone and, therefore, deceased had sustained head injury. The Trial Court has observed that it was inconceivable that no other injury would be caused to the deceased if he was knocked down by the bike of the accused. The Trial Court has accepted the explanation given by the accused wherein he has stated that deceased fell down from the Truck while he was loading the sugarcane and sustained injury on the head and that he had not given dash to the deceased.

5. In my view, there is no infirmity in the order passed by the Trial Court. The Trial Court, in the facts and circumstances, has taken view which is a plausible view and as such, therefore, it is not necessary to interfere with the finding recorded by the Trial Court. No case is made out for grant of leave. Leave is refused. Appeal does not survive.

. Criminal Application is dismissed and disposed of accordingly.

V.M. KANADE, J.